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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,940	10/10/2000	Michael A. Donkin	03493.87082	9724
26652	7590	10/19/2005	EXAMINER AVELLINO, JOSEPH E	
AT&T CORP. P.O. BOX 4110 MIDDLETOWN, NJ 07748			ART UNIT 2143	PAPER NUMBER

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/680,940	Applicant(s) DONKIN ET AL.	
	Examiner Joseph E. Avellino <i>GA</i>	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16, 17, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16, 17, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-30 are presented for examination; claims 1, 18, and 19 independent.
- 2.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 16, 17, 29, and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Referring to claims 16, 17, 29, and 30 (e.g. exemplary claim 16) various typographical errors were found which render the claim unclear and indefinite:

Line 1-2: "said dial platform comprises at multiple chassis", please change "at" to "a".

Line 2: "each of said chassis", please change to "said multiple chassis".

Line 2-3: "containing a plurality cards", please change to "containing a plurality of cards".

Line 3: "said cards", please change to "said plurality of cards".

Line 4: "downloading oode to at least one of said chassis", please change to "downloading code to at least one of said multiple chassis".

Line 5: "at least one of said chassis", please change to "at least one of said multiple chassis".

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 16, 17, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormack et al. (USPN 6,360,255) (hereinafter McCormack) in view of Biondi et al. (USPN 6,894,802).

7. Referring to exemplary claim 16, McCormack discloses a method of dial platform configuration management, in which said dial platform comprises at multiple chassis (i.e. routers and managed devices), each of said chassis having a plurality of slots containing a plurality of cards, said cards having at least one modem thereon (the Office takes the term “modem” to be construed as “a device which MODulates a data signal at transmission and DEModulates the signal at reception” such as communication interfaces which must be inherently disclosed in order for network devices 140a-c to be able to communicate on Ethernet protocol networks; col. 4, lines 42-54), comprising the steps of:

selecting an action including downloading code to at least one chassis (i.e. network devices such as routers, switches, and other backbone devices that guide data

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communications among clients and servers) (Figure 3B, ref. 310 and related portions of the disclosure);

choosing a site at which said at least one chassis is located (i.e. select a device/platform Figure 3A, ref. 302);

selecting at least one chassis at said site (inherent since the software update is chosen for the particular device Figure 3A, ref. 302);

placing said at least one chassis at said site in a queue for subsequent execution of said selected action (i.e. scheduling) (col. 10, lines 33-42);

executing said selected action (col. 11, lines 46-55); and

determining a priority for said selected action (i.e. time to execute) selected by a user (col. 10, lines 33-42).

McCormack does not specifically disclose the priority is determined by how many chassis are selected and if more than five chassis are selected the selected action is given an average priority. Biondi discloses a method of transferring image data and task organization management wherein the image data be transferred by priorities by the size of the job (col. 3, lines 15-20). This would lead one of ordinary skill in the art to further optimize the prioritization of the jobs based on the size of the job, and as such any arbitrary number of tasks can be assigned to a particular job, such as specifically a threshold of five tasks per job. It would have been obvious to one of ordinary skill in the art to combine the teaching of Biondi with McCormack in order to further customize the execution of jobs, thereby increasing throughput of the task executor of McCormack and reducing overhead processing.

8. Claims 17, 29, and 30 are obvious variations of claim 16 and as such are rejected for similar reasons as stated above.

Conclusion

9. The Office has indicated allowable subject matter in the previous Office Action. However, during the prior art search, new art was found which reads upon the limitations previously objected. As such, a new rejection has been formulated.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A stylized handwritten signature consisting of a large 'S' shape with a horizontal line crossing it.

JEA
March 8, 2005

A handwritten signature in cursive script that reads 'Wm. C. Vaughn, Jr.' followed by a large, stylized flourish.

**WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER**